

IN THE  
SUPREME COURT OF THE UNITED STATES  
October Term, 1976

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SUPREME COURT, U.S.

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McKINLEY WILLIAMS,  
Petitioner

vs.

STATE OF NORTH CAROLINA,  
Respondent

ON WRIT OF CERTIORARI  
TO THE  
SUPREME COURT OF NORTH CAROLINA

MEM

RESPONSE OF RESPONDENT  
STATE OF NORTH CAROLINA  
TO PETITION FOR WRIT OF CERTIORARI

CITATION TO OPINION BELOW

The opinion of the Supreme Court of North Carolina is reported at 289 NC 439, 222 SE 2d 242 (1976), and is appended to petitioner's Petition as Appendix A.

JURISDICTION

Petitioner seeks to invoke the jurisdiction of this Court pursuant to 28 USC Sec. 1257 (3).

QUESTION PRESENTED

WHETHER THE IMPOSITION AND IMPLEMENTATION OF THE SENTENCE OF DEATH FOR THE OFFENSE OF MURDER IN THE FIRST DEGREE AS REQUIRED UNDER NORTH CAROLINA LAW CONSTITUTES CRUEL AND UNUSUAL PUNISHMENT.

CONSTITUTIONAL AND STATUTORY  
PROVISIONS INVOLVED

1. This appeal presents for construction the Eighth and Fourteenth Amendments to the Constitution of the United States.
2. Additionally, this appeal involves NC Gen. Stats. 14-17, 15-187, and 15-188 as cited by defendant-petitioner in his Petition for Writ of Certiorari.

STATEMENT OF FACTS

The State-respondent adopts as its own as if fully set out herein the facts as recited by the North Carolina Supreme Court at pages 243-244, (Southeastern Reporter) of its Opinion in State v. Williams 289 NC 439, 222 SE 2d 242 a copy of which is attached to petitioner's petition as Appendix A.

ARGUMENT

The State of North Carolina concedes that petitioner's sole question upon this appeal is governed by Woodson and Waxton v. North Carolina, \_\_\_\_\_ U.S. \_\_\_\_\_ (1976). It cannot, therefore, oppose the Petition for Writ of Certiorari filed herein, and thus to the extent that the decision below of the North Carolina Supreme Court leaves undisturbed the death penalty imposed by the trial tribunal, the State respondent does not oppose a remanding of this case to the North Carolina Supreme Court for further proceedings not inconsistent with Woodson and Waxton, supra.

CONCLUSION

For the foregoing reasons, the State-Respondent does not oppose the granting of certiorari in order that sentencing may be imposed consistent with Woodson and Waxton, supra.

Respectfully submitted this the 9th day of July, 1976.

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